

Shari'a Court Record Concerning Bathhouses SMH 97:52 28
Jumayda II 1175AH/January 24, 1762 Translator: Elyse
Semerdjian

This document has a dedication in the upper left hand corner that contains a number of honorific titles to Hajj Ahmad ibn Husayn the judge of Aleppo

Present at Aleppo's shari'a court was Sayyid Hasan chalabi ibn Shaykh Qasam, the shaykh of the bath keepers guild in Aleppo al-mahrusa, and Sayyid 'Ali ibn Sayyid Qasam, Sayyid Sharif ibn Hajj Mustafa, Sayyid

Muhammad ibn Hajj Ahmad, Sayyid Muhammad ibn Sayyid Muhammad, Sayyid Hasan ibn Sayyid

Muhammad, Sayyid Bakr ibn Hajj Muhammad, Hajj Yasin ibn Ahmad, Shaykh Muhammad ibn Ahmad,

Shaykh Muhammad ibn Haj Muhammad, Hajj Muhammad ibn Isma'il, Hajj Mustafa ibn Sh 'aban, Hajj

Muhammad ibn Mustafa, Hajj Mustafa ibn 'Abd al-Qadir, Shaykh 'Abd al-Qadir ibn 'Abd al-Latif 'Aloush, Hajj Mihammad ibn 'Aboud, Shaykh 'Ali ibn Muhammad, Hajj 'Abd al-Rahim ibn Hajj 'Ali, Hajj Husayn ibn

Hijazi, Khudhr Agha ibn Hajj Khalil, Hajj Muhammad ibn Hajj 'Ali, Amin ibn Yasin, Hajj Ibrahim ibn Hajj

Muhammad Bathhouse keeper al Banqusa, Mustafa ibn Ustadh Ibrahim, Hajj Husayn ibn Matar(?), Hajj

Muhammad ibn Shahada, Hajj Ahmad ibn Hajj 'Umar, Hajj Muhammad ibn Zayat, Hajj Muhammad ibn Hajj

Ayyub, Hajj Muhammad ibn (?) al-Din, Hajj Muhammad ibn Makka, Yasin ibn Shahin, Muhammad ibn Hajj Yusuf of the bathhouse keeper's guild in the city of Aleppo "The Protected (*al mahrusa*)" decided willingly and with consent before the judge and almighty God "may goodness follow from his hands"^[1] saying in

their testimony that we vowed with our consent to use towels (*futa*) of appropriate length and width (dimensions: length 2 ½ zar‘a^[2] and width 1 ½ zar‘a) in Aleppo’s bathhouses and will follow [the guidelines] accordingly. We also agreed that every week five days—beginning on Friday, Thursday, Sunday, Monday, and Wednesday—Muslim women alone are to enter bathhouses on these aforementioned days. Whereas,

Christian and Jewish women will not be present among them on those days in the bathhouses. Indeed, they

[Muslim women] are to be alone on these days. On the two remaining days of the week—Tuesday and

Saturday—Jewish and Christian women can enter the bathhouses by the aforementioned days alone without a Muslim woman present.

And also follow accordingly (*yijri al-hal ‘ala thalika*) on the condition that [non-Muslim bathers] put on a towel (*futa*) bearing specific markings that will define them (*y‘ati tafsiluha*) distinguish them specifically from Muslim men. Each Muslim man will use a towel around his waist known as an *azar* and on the side there will be a red stripe (*kanar*) the width of two fingers and the other should be of white cloth with absolutely no marking on it. Follow this procedure accordingly. It is the right of every Muslim to enter every bathhouse without consideration of poverty or wealth. When entering [the bath], Christian and Jewish men should wear first a towel with a black stripe known as a *mazar* free of any distinguishing mark, and when leaving the hot room give to every Christian and Jew two of those towels with black stripes on the side distinguishing it and known by it. On the condition that a lock is put on the door of the hot water basin (*khazzana*) nightly [in case] someone enters into the water before washing so that it becomes used continue with this agreement and do not break it for any reason. Whoever breaks this agreement will be punished and reprimanded by the judge. And now we request that the judge warn all the aforementioned bathhouse keepers, almighty God “goodness follows from his hands,” that allowing entry of Christian

and Jewish women with Muslim women is legally forbidden and incumbent upon every Muslim to forbid it especially the judge of Muhammad's law (*al-shari' a al-Muhammadiyya*) and that it is required for them to forbid the comingling (*mukhalata*) of non-Muslim women (*ahl al-dhimma*) from among the Jews or Christians [with] Muslims "because the infidel woman (*ahl al-kafira*) with respect to the Muslim woman is like a man and the comingling of women with unrelated (*ajanab*) men is forbidden, [therefore] it is forbidden with infidel women (*al-nisa al-kufar*) and Muslim women" according to al-Timurtashi (d. 1786) in *al-Tanwira*, and other juridical thinkers (*fuqaha*) [say] that "the *dhimmi* woman is like an unrelated man (*k'il rajal al-ajnabi*) and it is most correct that she should not gaze upon any part of a Muslim woman's body and like him [al-Timurtashi] according to Muhibbi and others it is indeed forbidden for a *dhimmi* woman to look at a Muslim woman's body parts from limb to limb or even parts of

those limbs (*wa law b'ad infasal thalika al-'adu*).

[1] Expression: *ajra allah t'ala al-khayr 'ala idaya*.

[2] Zar'a means a length measured by a spread extended hand to extended hand across the chest.